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VIA ECF

December 1, 2020

Honorable Mark Falk, CUSMJ
United States District Court
Martin Luther King Jr. Courthouse
50 Walnut Street
Newark NJ 07102

RE: Discover Growth Fund, LLC v. Fiorino, et al.,
Civil Action No. 2:20-cv-00351 (CCC)(MF)

Dear Chief Magistrate Judge Falk:

We are counsel to Discover Growth Fund, LLC, the plaintiff in the captioned action ("Discover"). We write respectfully to request that Your Honor grant a 30 day extension to effect service of process based on good cause and to direct the Clerk of the Court to issue a summons to the "Special Administrator" of the decedent estate of one of the defendants, as identified below.

We filed the initial Complaint in this action on January 9, 2020 [ECF No.1]. Thereafter, we learned that one of the defendants, Gary H. Rabin, was deceased on or about December 31, 2019. Accordingly, on January 30, 2020, we filed the Amended Complaint [ECF No. 4], substituting the Estate of Gary H. Rabin ("Rabin Estate") for Mr. Rabin individually as the named defendant. We filed a Corrected Amended Complaint on February 14, 2020 [ECF No. 5] which corrected the date of the filing of the probate petition discussed below. The other named defendants are represented by John E. Jureller, Jr., Esq. of Klestadt Winters Jureller Southard & Stevens, LLP. By Stipulation filed with the Court on March 6, 2020 [ECF No. 9], Mr. Jureller acknowledged and accepted service on behalf of his firm's clients.

Mr. Rabin was a resident of California. Accordingly, in order to obtain the appointment of a Special Administrator under California law so that we could serve the summons and Corrected Amended Complaint upon the Rabin Estate, Discover's California counsel filed a probate petition for the issuance of Letters of Administration of the Rabin Estate on February 4, 2020 in the Superior Court of California, Los Angeles County ("California Court".) On October 23, 2020, the California Court appointed Sheniqua T. Rouse-Pierre, a representative of Discover, as Special Administrator of the Rabin Estate. A copy of the California Court's Order Appointing Special Administrator is enclosed.

Due to the passage of time involved in the California Court's issuance of said Order, we are beyond the 90 day period for serving a summons and complaint upon the Special

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Administrator provided by Fed. R. Civ. P. 4(m). However, we acted diligently and timely in filing the necessary petition and related pleadings with the California Court. The delay comes from the California Court and not as a result of our efforts to effectuate proper service. Thus, we submit that good cause exists to grant our request. Accordingly, we hereby respectfully request that Your Honor So Order this letter (i) granting Discover a 30 day extension to effect service of process upon the Special Administrator and (ii) directing the Clerk to issue a Summons to the Special Administrator in this action.

As always, we appreciate the Court's time and attention to this matter.

Respectfully submitted,



Dale E. Barney
Director

Cc: John E. Jureller, Jr., Esq. (via ECF and email)

SO ORDERED:

(i) Discover is granted an extension of 30 days from the date hereof to effect service of process of a Summons and the Corrected Amended Complaint filed in the captioned action upon Sheniqua T. Rouse-Pierre, Special Administrator of the Estate of Gary H. Rabin.

(ii) The Clerk of the Court is hereby directed to issue a Summons directed to Ms. Rouse-Pierre as Special Administrator, maintaining a business address c/o Discover Growth Fund, LLC, 5330 Yacht Harbor Grande, Suite 206, St. Thomas, VI, 00802-5013, and deliver said Summons to Discover's counsel in the captioned action, Gibbons P.C., attention Dale E. Barney, Esq.

Dated:

Honorable Mark Falk, CUSMJ